

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Steven M. Bloom, Michael S. Spector and John L. Jacobs      Art Unit : 3693  
Serial No. : 10/001,900      Examiner : Sara M. Chandler  
Filed : November 14, 2001      Conf. No. : 8995  
Title : BALANCING ARBITRAGABLE TRACKING SECURITIES

**MAIL STOP Amendment**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

On June 18, 2008, Examiner Chandler and her supervisory Examiner Patel conducted a telephonic interview with the undersigned, Applicant's representative, involving the subject application and co-pending application Serial No. 10/077,182.

Discussed were claim 1, the rejections under 35 U.S.C. 101 and 112, second paragraph. The Gastineau reference was discussed, as being directed to trading of actively managed ETF's and calculation of net asset values but had no relation to the claimed subject matter.

Applicant's represent discussed the nature of the securities covered by claim 1, as specifically covered by Applicant's prior application, now U.S. Patent 7,249,086. Also discussed was arbitrage, creation units and net asset value calculations, as preface to understanding the nature of the inventions of the subject application and the co-pending application.

The examiner indicated that claim 1 needed to recite more than "recording by a computer" in order to recite statutory subject matter. The examiner suggested including calculations of net asset value and cash amounts owed as possible steps to be added to the claim.

Applicant's representative indicated that the calculation of net asset value was not properly required in the claim, because it was not needed to distinguish over the cited art and because it need not be performed during creation and redemption of the tracking shares, which was the subject matter of the claims. Applicant's representative agreed to consider addition of

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calculation of cash and consider addition of calculation of net asset value as a condition on the types of securities but not as an active step performed in the claim, because Applicant's representative contended that it was not needed to practice the claimed invention.

The examiner also indicated that the word "substantially" in claim 1 rendered the claim indefinite. Applicant's representative pointed out that the word lent a degree of tolerance to the exactness required of the creation unit.

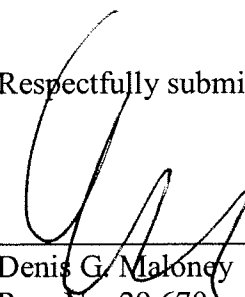
The examiner indicated that she would consult with her supervisor and send Applicant proposed claim language for additional consideration. Applicant's representative indicated that he would draft proposed claims to take into consideration the examiner's issues.

No fee is due. Please apply any other charges or credits to deposit account 06-1050.

Date: \_\_\_\_\_

6/24/08

Respectfully submitted,

  
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